

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**CYNTHIA ROSE HINKLE,
Individually and in her Capacity as
Administratrix of the Estate of Sherry
Lee Patch Cain, Deceased**

Plaintiff,

**THOMAS C. VALLEY, M.D.;
and GRANT MEMORIAL HOSPITAL,**

Defendants.

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**Civil Action No. 2:15-cv-1 (Bailey)
(Removal of case 14-C-32 from the Circuit
Court of Grant County, West Virginia)**

Electronically filed: January 2, 2015

NOTICE OF REMOVAL

The United States of America, by William J. Ihlenfeld, II, United States Attorney for the Northern District of West Virginia, and Helen Campbell Altmeyer, Assistant United States Attorney for said District, hereby respectfully files this Notice of Removal based upon the following:

1. Thomas C. Valley, M.D. is a defendant in Civil Action No. 14-C-32 now pending in the Circuit Court of Grant County, West Virginia. Civil Action No. 14-C-32 was commenced against Defendant Dr. Valley, along with another Defendant, by the filing of Plaintiff's Complaint on or about May 30, 2014. (A copy of this pleading is attached hereto as Exhibit 1; a copy of Grant Memorial Hospital's Motion to Dismiss Answer and Cross Claim is attached hereto as Exhibit 2.)

2. At the time of the incidents alleged in the Complaint, Dr. Valley was an employee of E.A. Hawse Health Center, Inc., a Federal Health Center in Baker, WV.

3. Attorney General, by the United States Attorney for the Northern District of West Virginia, has certified, pursuant to 28 U.S.C. § 2679(d), that Dr. Valley was acting in the scope of his employment at the time of the incidents alleged in the Complaint. (A copy of the Certification of Scope of Employment as referenced in 28 U.S.C. § 2679(d) is attached as Exhibit 3). 28 U.S.C. §2679(d)(2) provides that upon certification by the Attorney General that a defendant was acting within the scope of employment at the time of the incident out of which the action arose, any civil action or proceeding commenced in a State Court shall be removed without bond at any time before trial by the Attorney General to the District Court of the United States of the district and division embracing the place in which the action or proceeding is pending and, thereafter, that the action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of Title 28, United States Code, and all references thereto. Thus, the requisite certification having been obtained regarding Dr. Valley, the removal of this action is ripe.

4. Section 2679(d)(2), Title 28, further provides that the Certification of Scope of Employment “shall conclusively establish scope of office or employment for purposes of removal.”

WHEREFORE, this action now pending in the Circuit Court of Grant County, West Virginia, it is properly removed therefrom to this Court pursuant to Title 28, United States Code, Section 2679(d)(2).

Respectfully submitted,

WILLIAM J. IHLENFELD, II
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I Helen Campbell Altmeyer, hereby Certify that on January 2, 2015, a true and correct copy of the foregoing Notice of Removal has been sent to counsel for all parties by U.S. Mail, addressed as follows:

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